IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No	: 10/688,786	Confirmation No.: 9558
Applicants	: Henry R. Costantino and Joyce M. Hotz	
Filed	: October 17, 2003	
TC/A.U	.: 1653	Examiner: Anand W. Desai
Docket No	: 1733.2025-003	
Customer No	: 000038421	
Title	: Microencapsulation and Sustained Release of Biologically Active Polypeptides	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

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Judy Breen — Signature

Judy Breen

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REPLY TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This reply is in response to the Restriction Requirement mailed from the USPTO on October 21, 2004. Applicants elect Group I with traverse.

The Examiner states that Groups I, II and III are unrelated. This is untrue. Groups I and III are related as a genus/species. Indeed, Group III represents the combination of the preferred components of Claim 1. Compare Claims 4, 13 and 18 with Claim 31, for example. Clearly, the Examiner will search Claim 31 by simply searching Claims 4, 13 and 18.

Groups I and II are related as a combination/subcombination. Because Claim 23 (the combination) requires the particulars of Claim 1 (the subcombination), the Examiner cannot satisfy the burden for maintaining the restriction as required in MPEP 806.05(c).

Groups III and IV are related as products and methods of use. The Examiner asserts that the methods of Group IV (e.g., Claim 36) can be practiced with a materially different product. This is untrue. While the Examiner did not explain what product could be practiced, the following scenario is explanatory. It is true that Type 2 diabetes can be treated by administering exendin-4, without the use of a biocompatible polymer. However, such an administration would not be within the scope of Group IV. As such, the methods of Group IV cannot be practiced with a product other than the products of Group III.

Withdrawal of the restriction is requested.

Respectfully submitted,

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